

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0519-03  
Bill No.: SCS for SBs 69 & 458  
Subject: Crimes and Punishment; Felony Stealing Threshold; Evidence; Criminal Procedure  
Type: Original  
Date: March 12, 2001

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue Fund	Could exceed \$100,000	(Less than \$1,237,589)	(Less than \$3,138,345)
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>Could exceed \$100,000</b>	<b>(Less than \$1,237,589)</b>	<b>(Less than \$3,138,345)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

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## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Office of Prosecution Services** assume the cost of the proposed legislation can be absorbed by prosecutors.

Officials of the **Office of the State Courts Administrator (CTS)** assume the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of the State Public Defender (SPD)** assume that existing staff could provide representation for those stealing cases arising where indigent persons were charged with escalated felonies due to the amount of dollars involved. However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases. The SPD also assumes, for the purpose of this proposed legislation, although the possible penalties for several crimes involving theft of items worth less than \$500 will be reduced, existing staff will continue to provide representation where indigent persons were charged. In reality, the workload on these particular felony reduced to misdemeanor cases would be less, but then the number of these cases is very minimal when compared to the total State Public Defender caseload.

Officials from the **Department of Corrections (DOC)** assume this proposal deals with revisions of the criminal code for felony stealing. Impact due to the changes in this proposal are if the value of the stolen property were between \$150 and less than \$500, then the crime would be a class D felony. If the value of the stolen property or services were equal to or exceeding \$500, the crime would be a class C felony. A person stealing multiple pieces of property or services (each worth over \$150) may be charged with separate counts of stealing. Currently there are 1,767 inmates serving time for stealing.

The felony/misdemeanor criteria cutoff for stealing has been changed recently. It was previously \$150 and was raised to \$750 in August 1998 and was made punishable as a class C felony. This would have been during FY99, so prior years were compared with FY00, giving some chance for the change to show up. For FY97 and FY98, the average number of admissions for stealing was 959. For FY00, the average number of new admissions was 652, a decrease of 307. The aforementioned admission numbers include both term and 120-day sentence admissions.

The number of admissions would likely increase with the proposed change in the criteria cutoff. The new law would add an intermediate sanction, with stealing goods or services between \$150 and \$500 as a class D felony, and stealing over \$500 as a class C felony. It is estimated that approximately half the increase would be class D and half class C felonies. There would be  
**ASSUMPTION** (continued)

approximately 143 admissions to a term sentence per FY, as a higher percentage of D felons than C felons receive 120-day sentences. Class C felons admitted to term serve an average of 19.3 months (124 per each full year) and class D felons serve an average of 15.5 months (88 per each full year). Approximately 55 total would receive shock incarceration.

Revisions are also proposed for the felony/misdemeanor cutoff for receiving stolen goods. The felony/misdemeanor criteria cutoff for receiving stolen goods is \$150. If the law takes effect, receiving stolen property valued at over \$150 and less than \$500 would be a class D felony. Receiving stolen property valued at \$500 or more would be a class C felony. Currently there are 294 inmates serving time for receiving stolen property.

Passage of the bill might lead to a small reduction in the number of admissions for receiving stolen property. Over the past four fiscal years, the average number of admissions has been 143 (term and 120-day) on this charge, all class C felonies. It is estimated that approximately half (72) of the admissions for the year would be class D felons, of which a greater percentage than class C felons serve a 120-day sentence. About 50% of class C felons receive a term sentence and 43% of class D felons receive a term sentence. Using these figures, the proposal would result in 67 rather than 72 admissions to a term sentence, or a reduction of 5 admissions on receipt of stolen property charges. Of all the term admissions per year, 46% (those with a class D felony) would be serving a lesser sentence than that currently served.

Cumulatively, passage of this legislation is projected to increase prison admissions by 302 offenders per year. The effect on this inmate population is estimated to be 193 in FY03 and 252 per year from FY04 forward.

DOC estimates the increase in population will increase incrementally over the fiscal year. For cost estimates, a snapshot of the midyear average population was used to determine fiscal impact. DOC assumes \$35.61 (FY99 cost) inmate per capita costs with an inflation rate of 3% per each subsequent year.

At this time, DOC is unable to determine the number of people who would be convicted under the provisions of this bill to estimate the potential need for capital improvements. Estimated construction cost for one new medium-security inmate bed is \$48,300 (at FY99 cost). Utilizing this per-bed cost provides for a conservative estimate by the DOC, as the entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

In summary, total new commitments to the DOC which may result from the creation of the offenses outlined in this proposal cannot be accurately determined, but are expected to exceed the ASSUMPTION (continued)

outlined numbers and costs estimated in this fiscal note. DOC incurs a corresponding increase

in operational cost either through incarceration (FY99 average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$2.47 per offender, per day). Estimations in this note are very conservative as they do not include new bed space costs and the unknown cost factors cannot be determined.

The DOC also assumes raising the felony limit of theft from \$150 to \$500 for the specific crimes outlined in this proposal should prove to find more offenders receiving misdemeanor (or lesser) charges and less offenders receiving felony (or more extensive) sentences, as so outlined for each crime.

In summary, DOC assumes an unknown savings amount per year (estimated at less than \$100,000 annually) related to raising the dollar limits on theft crimes at this time until this fiscal note can be updated with numbers calculated from the DOC database on each specific charge code for offenders DOC currently supervises. Property value amounts are not listed in the database. Therefore, consultation with other agencies is required in order to potentially ascertain the breakdown of values for use in estimating fiscal impact due to passage of this note.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> – Department of Corrections			
Fewer prison commitments (raising dollar limits on theft crimes)	Could exceed \$100,000	Could exceed \$100,000	Could exceed \$100,000
<u>Costs</u> – Department of Corrections			
Incarceration/Probation costs (lowering dollar limits on stealing)	<u>\$0</u>	<u>(\$1,337,589)</u>	<u>(\$3,238,345)</u>
<b>ESTIMATED EFFECT ON GENERAL REVENUE FUND</b>	<b>Could exceed <u>\$100,000</u></b>	<b>(Less than <u>\$1,237,589</u>)</b>	<b>(Less than <u>\$3,138,345</u>)</b>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### DESCRIPTION

The proposed legislation would amend the felony classifications of the crimes of stealing and receipt of stolen property. Stealing would be classified as a class A misdemeanor if the value of the item is less than \$150; a class D felony if the value of the item is at least \$150, but less than \$500; and a class C felony if the value of the item is \$500 or more. The proposed legislation also revises numerous theft crimes to reflect a new felony limit of \$500. The current limit is \$150.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

### SOURCES OF INFORMATION

Office of State Courts Administrator  
Office of Prosecution Services  
Office of the State Public Defender  
Department of Corrections



Jeanne Jarrett, CPA  
Director

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